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INITIATIVE 949

I, Sam Reed, Secretary of State of the State of Washington and custodian of its seal, hereby certify that, according to the records on file in my office, the attached copy of Initiative Measure No. 949 to the People is a true and correct copy as it was received by this office.

AN ACT Relating to prohibiting government-imposed preferential treatment; amending RCW 49.60.010, 49.60.020, 49.60.030, 49.60.040, 49.60.050, 49.60.120, 49.60.130, 49.60.175, 49.60.176, 49.60.178, 49.60.180, 49.60.190, 49.60.200, 49.60.215, 49.60.222, 49.60.223, 49.60.224, 49.60.225, and 48.30.300; adding new sections to chapter 49.60 RCW; creating new sections; and providing an effective date.

POLICIES AND PURPOSES

NEW SECTION. **Sec. 1.** The people oppose important public policy changes being made without voter approval. The voters want an open debate where both sides are given the opportunity to have their voices heard and to persuade the voters on the issues involved. And after months of deliberation and discussion, the voters want to have the final say so that the decision can be made without fear of retaliation or intimidation. The people oppose the government forcing anyone to impose quotas, set-asides, or other preferential treatment for any group. This measure would prohibit state government from requiring any school, church, employer, or other public or private entity to impose quotas, set-asides, or other

preferential treatment to any individual or group based on sexual orientation or sexual preference. Sexual orientation or sexual preference shall not be a specially protected class. The inclusion of this group as a protected class is preferential treatment over other groups not included in this chapter, such as military status, income level, medical history, or political party membership. The people do not support preferential treatment because the people do not want it to be used as a basis for requiring the legalization of same-sex marriage. Also, the people recognize that more lawsuits are not the answer. Concerning the new law passed by the Legislature and signed by the Governor, the Seattle Post-Intelligencer reported: "The statewide measure would allow people, for the first time, to sue in state court, where damages could be more lucrative." The article further reports that their new law provides "the ability to sue in state court where recovery could include not just compensatory damages, but punitive damages." The people know that the Accept-me-or-else-I'll-sue-you or the Be-nice-to-me-or-else-I'll-have-you-arrested approach will only increase resentment and conflict among our citizens. This issue has become hopelessly politicized in Olympia. Politicians aren't thinking about what the voters want. Let the voters decide.

Sec. 2. A new section is added to chapter 49.60 RCW and reads as follows:

The state shall not require any school, church, employer, or other public or private entity to grant quotas, set-asides, or other preferential treatment for any individual or group based on sexual orientation or sexual preference. The special status as protected classes under this chapter shall not include sexual orientation or sexual preference. This act shall not be construed to modify or supersede state law relating to marriage.

(a) For the purposes of this chapter, "state" is state government and any of its agencies.

(b) For the purposes of this chapter, "sexual orientation or sexual preference" means heterosexuality, homosexuality, bisexuality, and gender expression or identity. As used in this definition, "gender expression or identity" means having or being perceived as having a gender identity, self-image, appearance, behavior, or expression, whether or not that gender identity, self-image,

appearance, behavior, or expression is different from that traditionally associated with the sex assigned to that person at birth.

Sec. 3. A new section is added to chapter 49.60 RCW and reads as follows:

This chapter does not authorize quotas, set-asides, or other preferential treatment for any individual or group based on sexual orientation or sexual preference. The special status as protected classes under this chapter shall not include sexual orientation or sexual preference. This act shall not be construed to modify or supersede state law relating to marriage.

Sec. 4. RCW 49.60.010 and 2006 c 4 s 1 are each amended to read as follows:

This chapter shall be known as the "law against discrimination". It is an exercise of the police power of the state for the protection of the public welfare, health, and peace of the people of this state, and in fulfillment of the provisions of the Constitution of this state concerning civil rights. The legislature hereby finds and declares that practices of discrimination against any of its inhabitants because of race, creed, color, national origin, families with children, sex, marital status, (~~((sexual orientation,))~~) age, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a disabled person are a matter of state concern, that such discrimination threatens not only the rights and proper privileges of its inhabitants but menaces the institutions and foundation of a free democratic state. A state agency is herein created with powers with respect to elimination and prevention of discrimination in employment, in credit and insurance transactions, in places of public resort, accommodation, or amusement, and in real property transactions because of race, creed, color, national origin, families with children, sex, marital status, (~~((sexual orientation,))~~) age, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a disabled person; and the commission established hereunder is hereby given general jurisdiction and power for such purposes. The commission may not require any school, church, employer, or other public or private entity to grant quotas, set-asides, or other

preferential treatment for any individual or group based on sexual orientation or sexual preference. The special status as protected classes under this chapter shall not include sexual orientation or sexual preference.

Sec. 5. RCW 49.60.020 and 2006 c 4 s 2 are each amended to read as follows:

The provisions of this chapter shall be construed liberally for the accomplishment of the purposes thereof. Nothing contained in this chapter shall be deemed to repeal any of the provisions of any other law of this state relating to discrimination because of race, color, creed, national origin, sex, marital status, (~~((sexual orientation,))~~) age, or the presence of any sensory, mental, or physical disability, other than a law which purports to require or permit doing any act which is an unfair practice under this chapter. Nor shall anything herein contained be construed to deny the right to any person to institute any action or pursue any civil or criminal remedy based upon an alleged violation of his or her civil rights. (~~((This chapter shall not be sexual orientation,))~~) This chapter shall not be construed to endorse any specific belief(~~((, practice, behavior, or orientation.~~ Inclusion of sexual orientation in this chapter)) and shall not be construed to modify or supersede state law relating to marriage. This section does not authorize quotas, set-asides, or other preferential treatment for any individual or group based on sexual orientation or sexual preference. The specific protected classes under this section shall not include sexual orientation or sexual preference.

Sec. 6. RCW 49.60.030 and 2006 c 4 s 3 are each amended to read as follows:

(1) The right to be free from discrimination because of race, creed, color, national origin, sex, (~~((sexual orientation,))~~) or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a disabled person is recognized as and declared to be a civil right. This section does not authorize quotas, set-asides, or other preferential treatment for any individual or group based on sexual orientation or sexual preference. The specific protected classes under this section shall

not include sexual orientation or sexual preference. This right shall include, but not be limited to:

(a) The right to obtain and hold employment without discrimination;

(b) The right to the full enjoyment of any of the accommodations, advantages, facilities, or privileges of any place of public resort, accommodation, assemblage, or amusement;

(c) The right to engage in real estate transactions without discrimination, including discrimination against families with children;

(d) The right to engage in credit transactions without discrimination;

(e) The right to engage in insurance transactions or transactions with health maintenance organizations without discrimination:

PROVIDED, That a practice which is not unlawful under RCW 48.30.300, 48.44.220, or 48.46.370 does not constitute an unfair practice for the purposes of this subparagraph; and

(f) The right to engage in commerce free from any discriminatory boycotts or blacklists. Discriminatory boycotts or blacklists for purposes of this section shall be defined as the formation or execution of any express or implied agreement, understanding, policy or contractual arrangement for economic benefit between any persons which is not specifically authorized by the laws of the United States and which is required or imposed, either directly or indirectly, overtly or covertly, by a foreign government or foreign person in order to restrict, condition, prohibit, or interfere with or in order to exclude any person or persons from any business relationship on the basis of race, color, creed, religion, sex, (~~sexual orientation~~), the presence of any sensory, mental, or physical disability, or the use of a trained dog guide or service animal by a disabled person, or national origin or lawful business relationship: PROVIDED HOWEVER, That nothing herein contained shall prohibit the use of boycotts as authorized by law pertaining to labor disputes and unfair labor practices.

(2) Any person deeming himself or herself injured by any act in violation of this chapter shall have a civil action in a court of competent jurisdiction to enjoin further violations, or to recover the actual damages sustained by the person, or both, together with the cost of suit including reasonable attorneys' fees or any other

appropriate remedy authorized by this chapter or the United States Civil Rights Act of 1964 as amended, or the Federal Fair Housing Amendments Act of 1988 (42 U.S.C. Sec. 3601 et seq.).

(3) Except for any unfair practice committed by an employer against an employee or a prospective employee, or any unfair practice in a real estate transaction which is the basis for relief specified in the amendments to RCW 49.60.225 contained in chapter 69, Laws of 1993, any unfair practice prohibited by this chapter which is committed in the course of trade or commerce as defined in the Consumer Protection Act, chapter 19.86 RCW, is, for the purpose of applying that chapter, a matter affecting the public interest, is not reasonable in relation to the development and preservation of business, and is an unfair or deceptive act in trade or commerce.

Sec. 7. RCW 49.60.040 and 2006 c 4 s 4 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Person" includes one or more individuals, partnerships, associations, organizations, corporations, cooperatives, legal representatives, trustees and receivers, or any group of persons; it includes any owner, lessee, proprietor, manager, agent, or employee, whether one or more natural persons; and further includes any political or civil subdivisions of the state and any agency or instrumentality of the state or of any political or civil subdivision thereof;

(2) "Commission" means the Washington state human rights commission;

(3) "Employer" includes any person acting in the interest of an employer, directly or indirectly, who employs eight or more persons, and does not include any religious or sectarian organization not organized for private profit;

(4) "Employee" does not include any individual employed by his or her parents, spouse, or child, or in the domestic service of any person;

(5) "Labor organization" includes any organization which exists for the purpose, in whole or in part, of dealing with employers concerning grievances or terms or conditions of employment, or for other mutual aid or protection in connection with employment;

(6) "Employment agency" includes any person undertaking with or without compensation to recruit, procure, refer, or place employees for an employer;

(7) "Marital status" means the legal status of being married, single, separated, divorced, or widowed;

(8) "National origin" includes "ancestry";

(9) "Full enjoyment of" includes the right to purchase any service, commodity, or article of personal property offered or sold on, or by, any establishment to the public, and the admission of any person to accommodations, advantages, facilities, or privileges of any place of public resort, accommodation, assemblage, or amusement, without acts directly or indirectly causing persons of any particular race, creed, color, sex, (~~((sexual orientation,))~~) national origin, or with any sensory, mental, or physical disability, or the use of a trained dog guide or service animal by a disabled person, to be treated as not welcome, accepted, desired, or solicited. This section does not authorize quotas, set-asides, or other preferential treatment for any individual or group based on sexual orientation or sexual preference. The specific protected classes under this section shall not include sexual orientation or sexual preference.

(10) "Any place of public resort, accommodation, assemblage, or amusement" includes, but is not limited to, any place, licensed or unlicensed, kept for gain, hire, or reward, or where charges are made for admission, service, occupancy, or use of any property or facilities, whether conducted for the entertainment, housing, or lodging of transient guests, or for the benefit, use, or accommodation of those seeking health, recreation, or rest, or for the burial or other disposition of human remains, or for the sale of goods, merchandise, services, or personal property, or for the rendering of personal services, or for public conveyance or transportation on land, water, or in the air, including the stations and terminals thereof and the garaging of vehicles, or where food or beverages of any kind are sold for consumption on the premises, or where public amusement, entertainment, sports, or recreation of any kind is offered with or without charge, or where medical service or care is made available, or where the public gathers, congregates, or assembles for amusement, recreation, or public purposes, or public halls, public elevators, and public washrooms of buildings and structures occupied by two or more tenants, or by the owner and one

or more tenants, or any public library or educational institution, or schools of special instruction, or nursery schools, or day care centers or children's camps: PROVIDED, That nothing contained in this definition shall be construed to include or apply to any institute, bona fide club, or place of accommodation, which is by its nature distinctly private, including fraternal organizations, though where public use is permitted that use shall be covered by this chapter; nor shall anything contained in this definition apply to any educational facility, columbarium, crematory, mausoleum, or cemetery operated or maintained by a bona fide religious or sectarian institution;

(11) "Real property" includes buildings, structures, dwellings, real estate, lands, tenements, leaseholds, interests in real estate cooperatives, condominiums, and hereditaments, corporeal and incorporeal, or any interest therein;

(12) "Real estate transaction" includes the sale, appraisal, brokering, exchange, purchase, rental, or lease of real property, transacting or applying for a real estate loan, or the provision of brokerage services;

(13) "Dwelling" means any building, structure, or portion thereof that is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land that is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof;

(14) "Sex" means gender;

(15) (~~("Sexual orientation" means heterosexuality, homosexuality, bisexuality, and gender expression or identity. As used in this definition, "gender expression or identity" means having or being perceived as having a gender identity, self-image, appearance, behavior, or expression, whether or not that gender identity, self-image, appearance, behavior, or expression is different from that traditionally associated with the sex assigned to that person at birth~~))

~~((16))~~ "Aggrieved person" means any person who: (a) Claims to have been injured by an unfair practice in a real estate transaction; or (b) believes that he or she will be injured by an unfair practice in a real estate transaction that is about to occur;

~~((17))~~ (16) "Complainant" means the person who files a complaint in a real estate transaction;

~~((18))~~ (17) "Respondent" means any person accused in a complaint or amended complaint of an unfair practice in a real estate transaction;

~~((19))~~ (18) "Credit transaction" includes any open or closed end credit transaction, whether in the nature of a loan, retail installment transaction, credit card issue or charge, or otherwise, and whether for personal or for business purposes, in which a service, finance, or interest charge is imposed, or which provides for repayment in scheduled payments, when such credit is extended in the regular course of any trade or commerce, including but not limited to transactions by banks, savings and loan associations or other financial lending institutions of whatever nature, stock brokers, or by a merchant or mercantile establishment which as part of its ordinary business permits or provides that payment for purchases of property or service therefrom may be deferred;

~~((20))~~ (19) "Families with children status" means one or more individuals who have not attained the age of eighteen years being domiciled with a parent or another person having legal custody of such individual or individuals, or with the designee of such parent or other person having such legal custody, with the written permission of such parent or other person. Families with children status also applies to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of eighteen years;

~~((21))~~ (20) "Covered multifamily dwelling" means: (a) Buildings consisting of four or more dwelling units if such buildings have one or more elevators; and (b) ground floor dwelling units in other buildings consisting of four or more dwelling units;

~~((22))~~ (21) "Premises" means the interior or exterior spaces, parts, components, or elements of a building, including individual dwelling units and the public and common use areas of a building;

~~((23))~~ (22) "Dog guide" means a dog that is trained for the purpose of guiding blind persons or a dog that is trained for the purpose of assisting hearing impaired persons;

~~((24))~~ (23) "Service animal" means an animal that is trained for the purpose of assisting or accommodating a disabled person's sensory, mental, or physical disability.

Sec. 8. RCW 49.60.120 and 2006 c 4 s 5 are each amended to read as follows:

The commission shall have the functions, powers and duties:

(1) To appoint an executive director and chief examiner, and such investigators, examiners, clerks, and other employees and agents as it may deem necessary, fix their compensation within the limitations provided by law, and prescribe their duties.

(2) To obtain upon request and utilize the services of all governmental departments and agencies.

(3) To adopt, amend, and rescind suitable rules to carry out the provisions of this chapter, and the policies and practices of the commission in connection therewith.

(4) To receive, impartially investigate, and pass upon complaints alleging unfair practices as defined in this chapter.

(5) To issue such publications and results of investigations and research as in its judgment will tend to promote good will and minimize or eliminate discrimination because of sex, (~~sexual orientation,~~) race, creed, color, national origin, marital status, age, or the presence of any sensory, mental, or physical disability, or the use of a trained dog guide or service animal by a disabled person. This section does not authorize quotas, set-asides, or other preferential treatment for any individual or group based on sexual orientation or sexual preference. The specific protected classes under this section shall not include sexual orientation or sexual preference.

(6) To make such technical studies as are appropriate to effectuate the purposes and policies of this chapter and to publish and distribute the reports of such studies.

(7) To cooperate and act jointly or by division of labor with the United States or other states, with other Washington state agencies, commissions, and other government entities, and with political subdivisions of the state of Washington and their respective human rights agencies to carry out the purposes of this chapter. However, the powers which may be exercised by the commission under this subsection permit investigations and complaint dispositions only if the investigations are designed to reveal, or the complaint deals only with, allegations which, if proven, would constitute unfair practices under this chapter. The commission may perform such services for these agencies and be reimbursed therefor.

(8) To foster good relations between minority and majority population groups of the state through seminars, conferences, educational programs, and other intergroup relations activities.

Sec. 9. RCW 49.60.130 and 2006 c 4 s 6 are each amended to read as follows:

The commission has power to create such advisory agencies and conciliation councils, local, regional, or statewide, as in its judgment will aid in effectuating the purposes of this chapter. The commission may empower them to study the problems of discrimination in all or specific fields of human relationships or in specific instances of discrimination because of sex, race, creed, color, national origin, marital status, (~~((sexual orientation,))~~) age, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a disabled person; to foster through community effort or otherwise good will, cooperation, and conciliation among the groups and elements of the population of the state, and to make recommendations to the commission for the development of policies and procedures in general and in specific instances, and for programs of formal and informal education which the commission may recommend to the appropriate state agency. This section does not authorize quotas, set-asides, or other preferential treatment for any individual or group based on sexual orientation or sexual preference. The specific protected classes under this section shall not include sexual orientation or sexual preference.

Such advisory agencies and conciliation councils shall be composed of representative citizens, serving without pay, but with reimbursement for travel expenses in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended, and the commission may make provision for technical and clerical assistance to such agencies and councils and for the expenses of such assistance. The commission may use organizations specifically experienced in dealing with questions of discrimination.

Sec. 10. RCW 49.60.175 and 2006 c 4 s 7 are each amended to read as follows:

It shall be an unfair practice to use the sex, race, creed, color, national origin, marital status, (~~((sexual orientation,))~~) or the presence of any sensory, mental, or physical disability of any

person, or the use of a trained dog guide or service animal by a disabled person, concerning an application for credit in any credit transaction to determine the credit worthiness of an applicant. This section does not authorize quotas, set-asides, or other preferential treatment for any individual or group based on sexual orientation or sexual preference. The specific protected classes under this section shall not include sexual orientation or sexual preference.

Sec. 11. RCW 49.60.176 and 2006 c 4 s 8 are each amended to read as follows:

(1) It is an unfair practice for any person whether acting for himself, herself, or another in connection with any credit transaction because of race, creed, color, national origin, sex, marital status, (~~((sexual orientation,))~~) or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a disabled person:

(a) To deny credit to any person;

(b) To increase the charges or fees for or collateral required to secure any credit extended to any person;

(c) To restrict the amount or use of credit extended or to impose different terms or conditions with respect to the credit extended to any person or any item or service related thereto;

(d) To attempt to do any of the unfair practices defined in this section.

(2) Nothing in this section shall prohibit any party to a credit transaction from considering the credit history of any individual applicant.

(3) Further, nothing in this section shall prohibit any party to a credit transaction from considering the application of the community property law to the individual case or from taking reasonable action thereon. This section does not authorize quotas, set-asides, or other preferential treatment for any individual or group based on sexual orientation or sexual preference. The specific protected classes under this section shall not include sexual orientation or sexual preference.

Sec. 12. RCW 49.60.178 and 2006 c 4 s 9 are each amended to read as follows:

It is an unfair practice for any person whether acting for himself, herself, or another in connection with an insurance transaction or transaction with a health maintenance organization to cancel or fail or refuse to issue or renew insurance or a health maintenance agreement to any person because of sex, marital status, (~~((sexual orientation,))~~) race, creed, color, national origin, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a disabled person:

PROVIDED, That a practice which is not unlawful under RCW 48.30.300, 48.44.220, or 48.46.370 does not constitute an unfair practice for the purposes of this section. For the purposes of this section, "insurance transaction" is defined in RCW 48.01.060, health maintenance agreement is defined in RCW 48.46.020, and "health maintenance organization" is defined in RCW 48.46.020.

The fact that such unfair practice may also be a violation of chapter 48.30, 48.44, or 48.46 RCW does not constitute a defense to an action brought under this section.

The insurance commissioner, under RCW 48.30.300, and the human rights commission, under chapter 49.60 RCW, shall have concurrent jurisdiction under this section and shall enter into a working agreement as to procedure to be followed in complaints under this section. This section does not authorize quotas, set-asides, or other preferential treatment for any individual or group based on sexual orientation or sexual preference. The specific protected classes under this section shall not include sexual orientation or sexual preference.

Sec. 13. RCW 49.60.180 and 2006 c 4 s 10 are each amended to read as follows:

It is an unfair practice for any employer:

(1) To refuse to hire any person because of age, sex, marital status, (~~((sexual orientation,))~~) race, creed, color, national origin, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a disabled person, unless based upon a bona fide occupational qualification: PROVIDED, That the prohibition against discrimination because of such disability shall not apply if the particular disability prevents the proper performance of the particular worker involved: PROVIDED, That this section shall not be construed to require an employer to

establish employment goals or quotas(~~((based on sexual orientation))~~). This section does not authorize quotas, set-asides, or other preferential treatment for any individual or group based on sexual orientation or sexual preference. The specific protected classes under this section shall not include sexual orientation or sexual preference.

(2) To discharge or bar any person from employment because of age, sex, marital status, (~~((sexual orientation,))~~) race, creed, color, national origin, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a disabled person. This section does not authorize quotas, set-asides, or other preferential treatment for any individual or group based on sexual orientation or sexual preference. The specific protected classes under this section shall not include sexual orientation or sexual preference.

(3) To discriminate against any person in compensation or in other terms or conditions of employment because of age, sex, marital status, (~~((sexual orientation,))~~) race, creed, color, national origin, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a disabled person: PROVIDED, That it shall not be an unfair practice for an employer to segregate washrooms or locker facilities on the basis of sex, or to base other terms and conditions of employment on the sex of employees where the commission by regulation or ruling in a particular instance has found the employment practice to be appropriate for the practical realization of equality of opportunity between the sexes. This section does not authorize quotas, set-asides, or other preferential treatment for any individual or group based on sexual orientation or sexual preference. The specific protected classes under this section shall not include sexual orientation or sexual preference.

(4) To print, or circulate, or cause to be printed or circulated any statement, advertisement, or publication, or to use any form of application for employment, or to make any inquiry in connection with prospective employment, which expresses any limitation, specification, or discrimination as to age, sex, marital status, (~~((sexual orientation,))~~) race, creed, color, national origin, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a disabled person, or any intent to make any such limitation, specification, or discrimination,

unless based upon a bona fide occupational qualification: PROVIDED, Nothing contained herein shall prohibit advertising in a foreign language. This section does not authorize quotas, set-asides, or other preferential treatment for any individual or group based on sexual orientation or sexual preference. The specific protected classes under this section shall not include sexual orientation or sexual preference.

Sec. 14. RCW 49.60.190 and 2006 c 4 s 11 are each amended to read as follows:

It is an unfair practice for any labor union or labor organization:

(1) To deny membership and full membership rights and privileges to any person because of age, sex, marital status, (~~((sexual orientation,))~~) race, creed, color, national origin, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a disabled person. This section does not authorize quotas, set-asides, or other preferential treatment for any individual or group based on sexual orientation or sexual preference. The specific protected classes under this section shall not include sexual orientation or sexual preference.

(2) To expel from membership any person because of age, sex, marital status, (~~((sexual orientation,))~~) race, creed, color, national origin, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a disabled person. This section does not authorize quotas, set-asides, or other preferential treatment for any individual or group based on sexual orientation or sexual preference. The specific protected classes under this section shall not include sexual orientation or sexual preference.

(3) To discriminate against any member, employer, employee, or other person to whom a duty of representation is owed because of age, sex, marital status, (~~((sexual orientation,))~~) race, creed, color, national origin, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a disabled person. This section does not authorize quotas, set-asides, or other preferential treatment for any individual or group based on sexual orientation or sexual preference. The specific protected

classes under this section shall not include sexual orientation or sexual preference.

Sec. 15. RCW 49.60.200 and 2006 c 4 s 12 are each amended to read as follows:

It is an unfair practice for any employment agency to fail or refuse to classify properly or refer for employment, or otherwise to discriminate against, an individual because of age, sex, marital status, ((~~sexual orientation,~~)) race, creed, color, national origin, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a disabled person, or to print or circulate, or cause to be printed or circulated any statement, advertisement, or publication, or to use any form of application for employment, or to make any inquiry in connection with prospective employment, which expresses any limitation, specification or discrimination as to age, sex, race, ((~~sexual orientation,~~)) creed, color, or national origin, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a disabled person, or any intent to make any such limitation, specification, or discrimination, unless based upon a bona fide occupational qualification: PROVIDED, Nothing contained herein shall prohibit advertising in a foreign language. This section does not authorize quotas, set-asides, or other preferential treatment for any individual or group based on sexual orientation or sexual preference. The specific protected classes under this section shall not include sexual orientation or sexual preference.

Sec. 16. RCW 49.60.215 and 2006 c 4 s 13 are each amended to read as follows:

It shall be an unfair practice for any person or the person's agent or employee to commit an act which directly or indirectly results in any distinction, restriction, or discrimination, or the requiring of any person to pay a larger sum than the uniform rates charged other persons, or the refusing or withholding from any person the admission, patronage, custom, presence, frequenting, dwelling, staying, or lodging in any place of public resort, accommodation, assemblage, or amusement, except for conditions and limitations established by law and applicable to all persons, regardless of race, creed, color, national origin, ((~~sexual orientation,~~)) sex, the

presence of any sensory, mental, or physical disability, or the use of a trained dog guide or service animal by a disabled person: PROVIDED, That this section shall not be construed to require structural changes, modifications, or additions to make any place accessible to a disabled person except as otherwise required by law: PROVIDED, That behavior or actions constituting a risk to property or other persons can be grounds for refusal and shall not constitute an unfair practice. This section does not authorize quotas, set-asides, or other preferential treatment for any individual or group based on sexual orientation or sexual preference. The specific protected classes under this section shall not include sexual orientation or sexual preference.

Sec. 17. RCW 49.60.222 and 2006 c 4 s 14 are each amended to read as follows:

(1) It is an unfair practice for any person, whether acting for himself, herself, or another, because of sex, marital status, (~~((sexual orientation,))~~) race, creed, color, national origin, families with children status, the presence of any sensory, mental, or physical disability, or the use of a trained dog guide or service animal by a disabled person:

(a) To refuse to engage in a real estate transaction with a person;

(b) To discriminate against a person in the terms, conditions, or privileges of a real estate transaction or in the furnishing of facilities or services in connection therewith;

(c) To refuse to receive or to fail to transmit a bona fide offer to engage in a real estate transaction from a person;

(d) To refuse to negotiate for a real estate transaction with a person;

(e) To represent to a person that real property is not available for inspection, sale, rental, or lease when in fact it is so available, or to fail to bring a property listing to his or her attention, or to refuse to permit the person to inspect real property;

(f) To discriminate in the sale or rental, or to otherwise make unavailable or deny a dwelling, to any person; or to a person residing in or intending to reside in that dwelling after it is sold,

rented, or made available; or to any person associated with the person buying or renting;

(g) To make, print, circulate, post, or mail, or cause to be so made or published a statement, advertisement, or sign, or to use a form of application for a real estate transaction, or to make a record or inquiry in connection with a prospective real estate transaction, which indicates, directly or indirectly, an intent to make a limitation, specification, or discrimination with respect thereto;

(h) To offer, solicit, accept, use, or retain a listing of real property with the understanding that a person may be discriminated against in a real estate transaction or in the furnishing of facilities or services in connection therewith;

(i) To expel a person from occupancy of real property;

(j) To discriminate in the course of negotiating, executing, or financing a real estate transaction whether by mortgage, deed of trust, contract, or other instrument imposing a lien or other security in real property, or in negotiating or executing any item or service related thereto including issuance of title insurance, mortgage insurance, loan guarantee, or other aspect of the transaction. Nothing in this section shall limit the effect of RCW 49.60.176 relating to unfair practices in credit transactions; or

(k) To attempt to do any of the unfair practices defined in this section.

(2) For the purposes of this chapter discrimination based on the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a blind, deaf, or physically disabled person includes:

(a) A refusal to permit, at the expense of the disabled person, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the dwelling, except that, in the case of a rental, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter agreeing to restore the interior of the dwelling to the condition that existed before the modification, reasonable wear and tear excepted;

(b) To refuse to make reasonable accommodation in rules, policies, practices, or services when such accommodations may be necessary to afford a person with the presence of any sensory,

mental, or physical disability and/or the use of a trained dog guide or service animal by a blind, deaf, or physically disabled person equal opportunity to use and enjoy a dwelling; or

(c) To fail to design and construct covered multifamily dwellings and premises in conformance with the federal fair housing amendments act of 1988 (42 U.S.C. Sec. 3601 et seq.) and all other applicable laws or regulations pertaining to access by persons with any sensory, mental, or physical disability or use of a trained dog guide or service animal. Whenever the requirements of applicable laws or regulations differ, the requirements which require greater accessibility for persons with any sensory, mental, or physical disability shall govern.

Nothing in (a) or (b) of this subsection shall apply to: (i) A single-family house rented or leased by the owner if the owner does not own or have an interest in the proceeds of the rental or lease of more than three such single-family houses at one time, the rental or lease occurred without the use of a real estate broker or salesperson, as defined in RCW 18.85.010, and the rental or lease occurred without the publication, posting, or mailing of any advertisement, sign, or statement in violation of subsection (1)(g) of this section; or (ii) rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other if the owner maintains and occupies one of the rooms or units as his or her residence.

(3) Notwithstanding any other provision of this chapter, it shall not be an unfair practice or a denial of civil rights for any public or private educational institution to separate the sexes or give preference to or limit use of dormitories, residence halls, or other student housing to persons of one sex or to make distinctions on the basis of marital or families with children status.

(4) Except pursuant to subsection (2)(a) of this section, this section shall not be construed to require structural changes, modifications, or additions to make facilities accessible to a disabled person except as otherwise required by law. Nothing in this section affects the rights, responsibilities, and remedies of landlords and tenants pursuant to chapter 59.18 or 59.20 RCW, including the right to post and enforce reasonable rules of conduct and safety for all tenants and their guests, provided that chapters

59.18 and 59.20 RCW are only affected to the extent they are inconsistent with the nondiscrimination requirements of this chapter. Nothing in this section limits the applicability of any reasonable federal, state, or local restrictions regarding the maximum number of occupants permitted to occupy a dwelling.

(5) Notwithstanding any other provision of this chapter, it shall not be an unfair practice for any public establishment providing for accommodations offered for the full enjoyment of transient guests as defined by RCW 9.91.010(1)(c) to make distinctions on the basis of families with children status. Nothing in this section shall limit the effect of RCW 49.60.215 relating to unfair practices in places of public accommodation.

(6) Nothing in this chapter prohibiting discrimination based on families with children status applies to housing for older persons as defined by the federal fair housing amendments act of 1988, 42 U.S.C. Sec. 3607(b)(1) through (3), as amended by the housing for older persons act of 1995, P.L. 104-76, as enacted on December 28, 1995. Nothing in this chapter authorizes requirements for housing for older persons different than the requirements in the federal fair housing amendments act of 1988, 42 U.S.C. Sec. 3607(b)(1) through (3), as amended by the housing for older persons act of 1995, P.L. 104-76, as enacted on December 28, 1995.

(7) Nothing in this chapter shall apply to real estate transactions involving the sharing of a dwelling unit, or rental or sublease of a portion of a dwelling unit, when the dwelling unit is to be occupied by the owner or sublessor. For purposes of this section, "dwelling unit" has the same meaning as in RCW 59.18.030.

This section does not authorize quotas, set-asides, or other preferential treatment for any individual or group based on sexual orientation or sexual preference. The specific protected classes under this section shall not include sexual orientation or sexual preference.

Sec. 18. RCW 49.60.223 and 2006 c 4 s 15 are each amended to read as follows:

It is an unfair practice for any person, for profit, to induce or attempt to induce any person to sell or rent any real property by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, creed,

color, sex, national origin, (~~((sexual orientation,))~~) families with children status, or with any sensory, mental, or physical disability and/or the use of a trained dog guide or service animal by a blind, deaf, or physically disabled person. This section does not authorize quotas, set-asides, or other preferential treatment for any individual or group based on sexual orientation or sexual preference. The specific protected classes under this section shall not include sexual orientation or sexual preference.

Sec. 19. RCW 49.60.224 and 2006 c 4 s 16 are each amended to read as follows:

(1) Every provision in a written instrument relating to real property which purports to forbid or restrict the conveyance, encumbrance, occupancy, or lease thereof to individuals of a specified race, creed, color, sex, national origin, (~~((sexual orientation,))~~) families with children status, or with any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a blind, deaf, or physically disabled person, and every condition, restriction, or prohibition, including a right of entry or possibility of reverter, which directly or indirectly limits the use or occupancy of real property on the basis of race, creed, color, sex, national origin, (~~((sexual orientation,))~~) families with children status, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a blind, deaf, or physically disabled person is void.

(2) It is an unfair practice to insert in a written instrument relating to real property a provision that is void under this section or to honor or attempt to honor such a provision in the chain of title.

This section does not authorize quotas, set-asides, or other preferential treatment for any individual or group based on sexual orientation or sexual preference. The specific protected classes under this section shall not include sexual orientation or sexual preference.

Sec. 20. RCW 49.60.225 and 2006 c 4 s 17 are each amended to read as follows:

(1) When a reasonable cause determination has been made under RCW 49.60.240 that an unfair practice in a real estate transaction has

been committed and a finding has been made that the respondent has engaged in any unfair practice under RCW 49.60.250, the administrative law judge shall promptly issue an order for such relief suffered by the aggrieved person as may be appropriate, which may include actual damages as provided by the federal fair housing amendments act of 1988 (42 U.S.C. Sec. 3601 et seq.), and injunctive or other equitable relief. Such order may, to further the public interest, assess a civil penalty against the respondent:

(a) In an amount up to ten thousand dollars if the respondent has not been determined to have committed any prior unfair practice in a real estate transaction;

(b) In an amount up to twenty-five thousand dollars if the respondent has been determined to have committed one other unfair practice in a real estate transaction during the five-year period ending on the date of the filing of this charge; or

(c) In an amount up to fifty thousand dollars if the respondent has been determined to have committed two or more unfair practices in a real estate transaction during the seven-year period ending on the date of the filing of this charge, for loss of the right secured by RCW 49.60.010, 49.60.030, 49.60.040, and 49.60.222 through 49.60.224, as now or hereafter amended, to be free from discrimination in real property transactions because of sex, marital status, race, creed, color, national origin, (~~((sexual orientation,))~~) families with children status, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a blind, deaf, or physically disabled person. Enforcement of the order and appeal therefrom by the complainant or respondent may be made as provided in RCW 49.60.260 and 49.60.270. If acts constituting the unfair practice in a real estate transaction that is the object of the charge are determined to have been committed by the same natural person who has been previously determined to have committed acts constituting an unfair practice in a real estate transaction, then the civil penalty of up to fifty thousand dollars may be imposed without regard to the period of time within which any subsequent unfair practice in a real estate transaction occurred. All civil penalties assessed under this section shall be paid into the state treasury and credited to the general fund.

(2) Such order shall not affect any contract, sale, conveyance, encumbrance, or lease consummated before the issuance of an order

that involves a bona fide purchaser, encumbrancer, or tenant who does not have actual notice of the charge filed under this chapter.

(3) Notwithstanding any other provision of this chapter, persons awarded damages under this section may not receive additional damages pursuant to RCW 49.60.250.

This section does not authorize quotas, set-asides, or other preferential treatment for any individual or group based on sexual orientation or sexual preference. The specific protected classes under this section shall not include sexual orientation or sexual preference.

Sec. 21. RCW 48.30.300 and 2006 c 4 s 18 are each amended to read as follows:

Notwithstanding any provision contained in Title 48 RCW to the contrary:

A person or entity engaged in the business of insurance in this state may not refuse to issue any contract of insurance or cancel or decline to renew such contract because of the sex, marital status or (~~((sexual orientation as defined in RCW 49.60.040, or))~~) the presence of any sensory, mental, or physical handicap of the insured or prospective insured. The amount of benefits payable, or any term, rate, condition, or type of coverage may not be restricted, modified, excluded, increased, or reduced on the basis of the (~~((sex,))~~) sex or marital status(~~((, or sexual orientation,))~~) or be restricted, modified, excluded, or reduced on the basis of the presence of any sensory, mental, or physical handicap of the insured or prospective insured. This subsection does not prohibit fair discrimination on the basis of sex, or marital status, or the presence of any sensory, mental, or physical handicap when bona fide statistical differences in risk or exposure have been substantiated.

This chapter does not authorize quotas, set-asides, or other preferential treatment for any individual or group based on sexual orientation or sexual preference. The special status as protected classes under this chapter shall not include sexual orientation or sexual preference.

NEW SECTION. **Sec. 22.** The provisions of this act are to be liberally construed to effectuate the intent, policies, and purposes of this act.

NEW SECTION. **Sec. 23.** Subheadings used in this act are not any part of the law.

NEW SECTION. **Sec. 24.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec. 25.** This act shall be called Let The Voters Decide Act.

NEW SECTION. **Sec. 26.** This act takes effect December 7, 2006.

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